

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Petitioner,

v.

TIMOTHY ELMORE,

Respondent.

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Misc. No. 12-00017-CG-B

PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

The United States of America, by Kenyen R. Brown, United States Attorney, avers to this Court as follows:

1. This is a proceeding brought pursuant to the provisions of Sections 7402(b) and 7604(a) of the Internal Revenue Code of 1986, 26 U.S.C. §§ 7402(b) and 7604(a) and (b), to judicially enforce an Internal Revenue Service summons.

2. Phillip Ditto is a duly commissioned Revenue Officer employed in Small Business/Self-Employed Gulf States Compliance Area, Internal Revenue Service and is authorized to issue Internal Revenue Service summonses pursuant to the authority contained in Section 7602 of Title 26, United States Code, and Treasury Regulation Section 301.7602-1, 26 C.F.R. Section 301.7602-1.

3. The respondent, Timothy Elmore, resides at 560 Johnson Avenue, Fairhope, Alabama 36532, within the jurisdiction of this Court.

4. Revenue Officer Ditto is conducting an investigation into the collection of the Federal tax liability of Skeeter Designs, Inc., for the taxable periods set forth in the Declaration of Revenue Officer Ditto attached as Government Exhibit 1 to the Memorandum of Law in Support of Petition to Enforce Summons filed herewith.

5. The respondent, Timothy Elmore, is in possession and control of testimony, books, records, papers, and other data which are relevant to the above-described investigation.

6. On March 14, 2012, an Internal Revenue Service summons was issued by Revenue Officer Ditto directing the respondent, Timothy Elmore, to appear before Revenue Officer Ditto on March 26, 2012, at 10:00 a.m., to testify and to produce the books, records, and other documents demanded in the summons. An attested copy of the summons was served upon respondent, by leaving it at the last and usual place of abode, on March 15, 2012. A copy of the Summons is attached to the Declaration of Revenue Officer Ditto, Government Exhibit 1 to the Memorandum of Law in Support of Petition to Enforce Summons, filed herewith.

7. On March 26, 2012, the respondent, Timothy Elmore, did not appear in response to the summons. Respondent's refusal to comply with the requirement of the summons to produce the requested records continues to date as set forth in the Declaration of Revenue Officer Ditto, Government Exhibit 1 to the Memorandum of Law in Support of Petition to Enforce Summons, filed herewith.

8. The books, papers, records, or other data sought by the summons are not already in possession of the Internal Revenue Service.

9. All administrative steps required by the Internal Revenue Code for the issuance of the summons have been taken.

10. It is necessary to obtain the testimony and examine the books, papers, records, or other data sought by the summons in order to properly investigate the collection of the Federal tax liability as is evidenced by the Declaration of Revenue Officer Ditto attached as Government Exhibit 1 to the Memorandum of Law in Support of Petition to Enforce Summons filed herewith and incorporated herein as part of this petition.

WHEREFORE, petitioner respectfully prays:

1. That the Court issue an order directing the respondent, Timothy Elmore, to show cause, if any, why respondent should not comply with and obey the aforementioned summons and each and every requirement thereof.
2. That the Court enter an order directing the respondent, Timothy Elmore, to obey the aforementioned summons and each and every requirement thereof by ordering the attendance, testimony, and production of the books, papers, records, or other data as is required and called for by the terms of the summons before Revenue Officer Ditto or any other proper officer or employee of the Internal Revenue Service at such time and place as may be fixed by Revenue Officer Ditto, or any other proper officer or employee of the Internal Revenue Service.
3. That the United States recover its costs in maintaining this action.
4. That the Court grant such other and further relief as is just and proper.

Respectfully submitted,

KENYEN R. BROWN
UNITED STATES ATTORNEY

By:

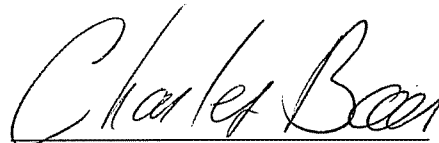


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CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2012, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system and I hereby certify that I caused to be mailed by United States Postal Service the document to the following:

Timothy Elmore
560 Johnson Avenue
Fairhope, AL 36532

A handwritten signature in cursive script that reads "Charles Baer". The signature is written in black ink and is positioned above a horizontal line.

Charles Baer
Assistant U.S. Attorney